## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS AMARILLO DIVISION

ERIK GARZA,	§	
	§	
Petitioner,	§	
	§	
v.	§	2:18-CV-51-Z
	§	
LORIE DAVIS, Director,	§	
Texas Department of Criminal Justice,	§	
Correctional Institutions Division,	§	
	§	
Respondent.	§	

## ORDER ADOPTING FINDINGS, CONCLUSIONS AND RECOMMENDATION AND DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS

On March 26, 2018, Petitioner filed a Petition for a Writ of Habeas Corpus. (ECF 3). On December 10, 2019, the United States Magistrate Judge entered findings and conclusions on the petition. (ECF 26). The Magistrate Judge RECOMMENDS that the petition be DISMISSED. No objections to the findings, conclusions, and recommendation have been filed. After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the Magistrate Judge, the Court concludes that the findings and conclusions are correct. It is therefore ORDERED that the findings, conclusions, and recommendation of the Magistrate Judge are ADOPTED, and the Petition for a Writ of Habeas Corpus is DISMISSED.

Considering the record in this case and pursuant to Federal Rule of Appellate Procedure 22(b), Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts, and 28 U.S.C. § 2253(c), the Court denies a certificate of appealability because Petitioner has

failed to make "a substantial showing of the denial of a constitutional right." Slack v. McDaniel,

529 U.S. 473, 484 (2000); see also Hernandez v. Thaler, 630 F.3d 420, 424 (5th Cir. 2011). The

Court ADOPTS and incorporates by reference the Magistrate Judge's findings, conclusions, and

recommendation filed in this case in support of its finding that Petitioner has failed to show (1)

that reasonable jurists would find this Court's "assessment of the constitutional claims debatable

or wrong," or (2) that reasonable jurists would find "it debatable whether the petition states a valid

claim of the denial of a constitutional right" and "debatable whether [this Court] was correct in its

procedural ruling." Slack, 529 U.S. at 484.

If Petitioner files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit

a motion to proceed in forma pauperis on appeal.

SO ORDERED.

January 16, 2020.

MATTHEW J. KACSMARYK

UNITED STATES DISTRICT JUDGE

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